

REMARKS

In response to the above Office Action, claims 1 and 2 have been amended and claims 12 and 13 cancelled to avoid the rejection of these claims under 35 U.S.C. §112, second paragraph. Support for the amendment to claim 1 can be found, for example, on page 20, lines 14-17. It is believed claims 1 and 2 now define the invention with the particularity required of §112, and its withdrawal as a ground of rejection of these claims is therefore requested. *oil*

In the Office Action, the Examiner rejected claims 1-3, 5, 6, 8-13, 16, and 17, all of the elected claims, under 35 U.S.C. §102(a) for being anticipated by published Japanese patent publication 2000-169527 (hereafter JP'527) or U.S. Patent No. 6,512,051 to Chino et al. (hereafter Chino '051).

The listed inventors of JP'527, as set forth in the English abstract, are Katsuhiro Igawa and Keisuke Chino. These two inventors are the same as inventors Keisuke Chino and Masahiro Ikawa of this application.

Unfortunately, M. Ikawa's name was incorrectly translated into English when the English abstract of JP'527 was prepared. The correct translation of inventor Ikawa's name into English is as set forth in this application, namely Masahiro Ikawa. Enclosed is a declaration of Masahiro Ikawa attesting to this fact. Note that the spelling of his name in Japanese is the same as that set forth under paragraph (72) of the first inventor "Igawa Katsuhiro" of the Japanese version of JP'527.

Accordingly, it is believed that applicants have conclusively established for the record that inventor Masahiro Ikawa of this application is the same person as inventor "Igawa Katsuhiro" listed as an inventor in JP'527.

Also enclosed for the Examiner's consideration is a Declaration of inventors K. Chino and M. Ikawa attesting to the fact that they are the joint inventors of the subject matter of claims 1-3, 5, 6, 8-13, 16 and 17 of this application as originally filed and as presently amended, all of the claims presently under consideration by the Examiner in this application.

Since the inventors of these claims are the same as the inventors of JP'527, it is submitted that JP'527 is not available as a prior art reference against these claims of this application. See M.P.E.P. §716.10. Note that this section of the M.P.E.P. does not require a disclaimer by the other applicants that they are not the inventors of the subject matter of claims 1-3, 5, 6, 8-13, 16, and 17, but applicants are willing to file one on request. To reject a claim over a reference under 35 U.S.C. §102(a), the reference must be of others. Since the inventors of J'527 are not "others," withdrawal of the rejection of the examined claims for being anticipated by JP'527 under §102(a) is therefore requested.

The listed inventors of Chino '051 are Keisuke Chino, Masahiro Ikawa, and Makoto Ashiura. Thus two of these inventors, K. Chino and M. Ikawa, are the same as inventors K. Chino and M. Ikawa of this application.

The Declaration of K. Chino and M. Ikawa also sets forth that they are the joint inventors of all of the subject matter in Chino '051 relied on by the Examiner to reject claims 1-3, 5, 6, 8-13, 16, and 17 under 35 U.S.C. §102(e) and not the inventive entity

set forth in Chino '051. Accordingly that they, not K. Chino, M. Ikawa, and M. Ashiura, are the joint inventors of the above-noted subject matter disclosed in Chino '051 and claimed in this application in claims 1-3, 5, 6, 8-13, 16, and 17.

Since the inventors of these claims are the same as the inventors of the subject matter of Chino '051 used to reject them, it is submitted that Chino '051 is not available as a prior art reference against these claims of this application in view of M.P.E.P. §716.10. Again it is noted that this section of the M.P.E.P. does not require a disclaimer by the other patentee, i.e., M. Ashiura, but applicants are willing to file such a disclaimer on request. To reject a claim over a reference under 35 U.S.C. §102(e) the reference must be to another. Since the inventors of the noted subject matter of Chino '051 are not "another," withdrawal of the rejection of the examined claims for being anticipated by Chino '051 under §102(e) is therefore requested.

With the removal of the primary references, JP'527 and Chino '051, it is submitted that the rejection under 35 U.S.C. §103(a) based solely on Alger cannot be sustained. In any event, it appears Alger was only applied to claims 12 and 13 which have been cancelled.

It is believed claims 1-3, 5, 6, 8-11, 16, and 17 are now in condition for allowance.


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 16, 2003

By: 
Arthur S. Garrett
Reg. No. 20,338

Attachments: **Declaration of Masahiro Ikawa**
 Declaration of Keisuke Chino and
 Masahiro Ikawa



PATENT
Customer No. 22,852
Attorney Docket No. 7409-22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Keisuke Chino et al.) Group Art Unit: 1713
)
Application No.: 09/883,239) Examiner: Donald R. Wilson
)
Filed: June 19, 2001)
)
For: Thermoplastic Polymer and Thermoplastic)
Elastomer Composition)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION OF KEISUKE CHINO AND MASAHIRO IKAWA

We, Keisuke Chino and Masahiro Ikawa, declare that we are the joint inventors of claims 1-3, 5, 6, 8-13, 16, and 17 of this application as originally filed and as amended as set forth in the attached copy of the claims.

We further declare that all of the subject matter in U.S. Patent No. 6,512,051 to Chino et al. (hereafter Chino '051) relied on by the Examiner in the Office Action of May 16, 2003 to reject the above-noted claims both under 35 U.S.C. § 102(e) and 103(a) originated with us and was not invented by the inventive entity set forth in Chino '051. Accordingly, we are the inventors of this subject matter disclosed in Chino '051 and claimed in this application.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and

further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: Sep. 19. 2003.

Keisuke Chino
KEISUKE CHINO

Dated: Sep. 19. 2003

Masahiro Ikawa
MASAHIRO IKAWA



PATENT
Customer No. 22,852
Attorney Docket No. 7409-22

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Sir:

DECLARATION OF MASAHIRO IKAWA

I, Masahiro Ikawa, a joint inventor of this application, declare that the spelling of my name in Japanese is 井川 勝弘, and that I am one of the inventors together with Keisuke Chino listed as the inventors in Japanese Patent Publication No. 2000-169527.

Further, that the English abstract of this publication incorrectly spells my name as Katsuhiro Igawa. The correct spelling of my name in English is Masahiro Ikawa.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: Sep. 19. 2003

Masahiro Ikawa
MASAHIRO IKAWA